

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**TOWERS WATSON & CO. n/k/a WTW  
DELAWARE HOLDINGS LLC,**

**Plaintiff,**

**V.**

**Civil Action No. 1:20-cv-00810**

**NATIONAL UNION FIRE  
INSURANCE COMPANY OF  
PITTSBURGH, PA, FEDERAL  
INSURANCE COMPANY, U.S.  
SPECIALTY INSURANCE  
COMPANY, TRAVELERS  
CASUALTY AND SURETY  
COMPANY OF AMERICA, LIBERTY  
INSURANCE UNDERWRITERS INC.,  
ALLIED WORLD NATIONAL  
ASSURANCE COMPANY, and  
IRONSHORE INDEMNITY INC.,**

## Defendants.

## **STIPULATED FINAL JUDGMENT AND ORDER**

Plaintiff Towers Watson & Co. n/k/a WTW Delaware Holdings LLC (“Towers Watson”) and Defendants National Union Fire Insurance Company of Pittsburgh, Pa. (“National Union”), Federal Insurance Company (“Federal”), U.S. Specialty Insurance Company (“U.S. Specialty”), Travelers Casualty and Surety Company of America (“Travelers”), Liberty Insurance Underwriters Inc. (“Liberty”), Allied World National Assurance Company (“Allied World”), and Ironshore Indemnity Inc (“Ironshore”) (collectively, “Defendants”) have agreed to enter into this Stipulated Final Judgment and Order for the purpose of resolving Towers Watson’s claims against the Defendants in this action.

WHEREAS, on July 20, 2020, Towers Watson filed a verified complaint [Doc. No. 1] (“Complaint”) against the Defendants; and

WHEREAS, as set forth in its Complaint, Towers Watson sought coverage under certain insurance policies (“Policies”) issued by Defendants for potential settlements in two underlying lawsuits, *In re Willis Towers Watson plc Proxy Litigation*, Civ. A. No. 1:17-cv-01338-AJT-JFA (E.D. Va.), and *In re Towers Watson & Co. Stockholder Litigation*, Consolidated C.A. No. 2018-0132-KSJM (Del. Ch.) (the “Underlying Actions”), and alleged that Defendants had breached the implied covenant of good faith and fair dealing; and

WHEREAS, on August 6, 2020, Towers Watson filed a motion for partial summary judgment (“Motion for Partial Summary Judgment”) [Doc No. 19] with a supporting memorandum and exhibits contending that the Bump-Up Clause in the Policies does not bar coverage for any settlement of the Underlying Actions, which motion was opposed by the Defendants; and

WHEREAS, on August 11, 2020, Defendants National Union, Federal, Travelers, Liberty, Allied World, and Ironshore filed a Motion to Dismiss or Stay Based on Mandatory Alternative Dispute Resolution Clause [Doc. No. 36] (the “ADR Motion”); and

WHEREAS, on August 11, 2020, Defendants Federal, Travelers, Liberty, Allied World, and Ironshore filed a Motion to Dismiss for Lack of Ripeness [Doc. No. 42] (the “Ripeness Motion”); and

WHEREAS, Defendants deny breaching the implied covenant of good faith and fair dealing; and

WHEREAS, the parties to the Underlying Actions reached settlements that were approved by the courts in the Underlying Actions and paid by February 12, 2021;

WHEREAS, on October 5, 2021, the Court issued a memorandum opinion and order [Doc No. 184] granting the Motion for Partial Summary Judgment, denying as moot the Ripeness Motion, and denying the ADR Motion (the “October 5 Order”); and

WHEREAS, Towers Watson has agreed to dismiss its claim for breach of the implied covenant of good faith and fair dealing with prejudice; and

WHEREAS, Defendants have agreed to waive all other defenses to Towers Watson’s claim for insurance coverage for the Underlying Actions under the Policies, other than the Bump-Up Clause in the Policies and defenses and arguments tied to the Bump Up Clause, which are expressly preserved for appeal and/or in the event of a remand; and

WHEREAS, Towers Watson and the Defendants (collectively, the “Parties”) have agreed that there are no other outstanding issues or claims to resolve prior to entry of final judgment; and

WHEREAS, the Defendants reserve all rights of appeal in connection with the Bump-Up Clause; and

WHEREAS, the Parties have agreed to the terms of this Stipulated Final Judgment and Order.

In light of the foregoing, and having reviewed the terms of this Stipulated Final Judgment and Order and the entire record in this case, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. The above recitals are incorporated into this Order and agreed to by the Parties.
2. Unless otherwise provided, this Stipulated Final Judgment and Order shall apply to Towers Watson and Defendants.

3. The Court enters a declaratory judgment in favor of Towers Watson and against all Defendants, declaring that the Bump-Up Clause in the Policies does not bar coverage for the settlement of the Underlying Actions.

4. **Judgment** is hereby entered in favor of Towers Watson and against each Defendant in the amount of its respective remaining limit of liability as identified in the chart below with prejudgment interest at the annual rate of six percent (6%) pursuant to Virginia Code Section 6.2-302. Each Defendant's liability for the judgment is individual, not joint, and payable by each Defendant as indicated in the below chart:

Defendant	Remaining Policy Limit	Pre-Judgment Interest through November 8, 2021	Additional Pre-Judgment Interest until entry of judgment
Federal	\$14,338,388	\$636,388.73	\$2,357.00 in daily interest from November 9, 2021 through the date this judgment is entered
U.S. Specialty	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Travelers	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Liberty	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Allied World	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Ironshore	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered

5. Each Defendant shall pay post-judgment interest calculated at the federal statutory interest rate set forth in 28 U.S.C. § 1961 on the portion of the judgment allocable to that Defendant from the date of entry of this judgment until the date of payment by that Defendant.

ENTERED this \_\_\_\_\_ day of November, 2021.

\_\_\_\_\_  
The Honorable Anthony J. Trenga  
United States District Judge

Date: November 9, 2021

Respectfully submitted:

Robin L. Cohen (*pro hac vice*)  
Adam S. Ziffer (*pro hac vice*)  
Orrie Levy (*pro hac vice*)  
Cohen Ziffer Frenchman & McKenna LLP  
1350 Avenue of the Americas  
25<sup>th</sup> Floor  
New York, NY 10019  
Tel: (212) 584-1890  
rcohen@cohenziffer.com  
aziffer@cohenziffer.com  
olevy@cohenziffer.com

/s/ Marla J. Diaz  
Andrew J. Terrell (VSB #30093)  
Marla J. Diaz (VSB #46799)  
Whiteford, Taylor & Preston, LLP  
3190 Fairview Park Drive, Suite 800  
Falls Church, VA 22042  
Tel: (703) 280-9131  
Fax: (703) 280-9139  
aterrell@wtplaw.com  
mdiaz@wtplaw.com

*Counsel for Plaintiff Towers Watson & Co.*

/s/ Ian S. Hoffman  
Ian S. Hoffman (VSB #75002)  
Scott Schreiber (*pro hac vice*)  
Arthur Luk (*pro hac vice*)  
ARNOLD & PORTER  
KAYE SCHOLER LLP  
601 Massachusetts Ave., NW  
Washington, DC 20002  
Tel: (202) 942-5000  
Fax: (202) 942-5999  
ian.hoffman@arnoldporter.com  
scott.schreiber@arnoldporter.com  
arthur.luk@arnoldporter.com

*Counsel for Defendant National Union Fire  
Ins. Co. of Pittsburgh, Pa.*

Allen Burton (*pro hac vice*)  
O'MELVENY & MYERS LLP  
7 Times Square  
New York, NY 10036  
Tel: (212) 326-2282  
Fax: (212) 326-2061  
aburton@omm.com

Joseph R. O'Connor (*pro hac vice*)  
O'MELVENY & MYERS LLP  
400 South Hope Street  
Los Angeles, CA 90064  
Tel: (213) 430-6000  
Fax: (213) 430-6407  
joconnor@omm.com

/s/ Matthew W. Beato  
Matthew W. Beato (VSB #83637)  
Kimberly M. Melvin (*pro hac vice*)  
Cara Tseng Duffield (*pro hac vice*)  
WILEY REIN LLP  
1776 K Street, NW  
Washington, DC 20006  
Tel: (202) 719-7000  
Fax: (202) 719-7049  
mbeato@wiley.law  
kmelvin@wiley.law  
cduffield@wiley.law

*Counsel for Defendant U.S. Specialty Ins. Co.*

Scott A. Schechter (*pro hac vice*)  
Joshua DiLena (*pro hac vice*)  
KAUFMAN BORGEEST & RYAN LLP  
200 Summit Lake Drive  
Valhalla, NY 10595  
Tel: (914) 449-1000  
Fax: (914) 449-1100  
sschechter@kbrlaw.com  
jdilena@kbrlaw.com

/s/ D. Sean Trainor  
D. Sean Trainor (VSB No. 43260)  
O'MELVENY & MYERS LLP  
1625 Eye Street, NW  
Washington, DC 20006  
Tel: (202) 383-5300  
Fax: (202) 383-5414  
dstrainor@omm.com

*Counsel for Defendant Federal Insurance  
Company*

/s/ Charles W. Chotvacs  
Charles W. Chotvacs (VSB# 70045)  
Thomas J. Judge (*pro hac vice*)  
Jeffrey J. Ward (*pro hac vice*)  
DYKEMA GOSSETT PLLC  
1301 K Street N.W., Suite 1100 West  
Washington, D.C. 20005  
Telephone: (202) 906-8619  
Facsimile: (888) 813-2443  
cchotvacs@dykema.com  
tjudge@dykema.com  
jward@dykema.com

*Counsel for Defendant Travelers Casualty and  
Surety Company of America*

/s/ William L. Mitchell  
William L. Mitchell (VSB #80125)  
ECCLESTON & WOLF, P.C.  
10400 Eaton Place, Suite 107  
Fairfax, VA 22030  
Tel: (703) 218-5330  
Fax: (703) 218-5350  
wmitchell@ewva.com

*Counsel for Defendants Liberty Insurance  
Underwriters, Inc. and Ironshore Indemnity*

*Inc.*

Kristin V. Gallagher (*pro hac vice*)  
Kennedys  
120 Mountain View Boulevard  
P.O. Box 650  
Basking Ridge  
New Jersey 07920  
Tel: (908) 848-1220  
Fax: (908) 647-8390  
Kristin.Gallagher@kennedyslaw.com

/s/ Patrick J. McDonald  
Patrick J. McDonald (VSB #80678)  
Cameron/McEvoy, PLLC  
4100 Monument Corner Drive, Suite 420  
Fairfax, VA 22030  
703.460.9340 (direct)  
703.273.8897 (fax)  
pmcdonald@cameronmcevoy.com

*Counsel for Defendant Allied World National  
Assurance Company*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on November 9, 2021, the foregoing document was electronically filed using the Court's CM/ECF system which will send electronic notification of the filing to all counsel of record.

---

Marla J. Diaz (VSB #46799)  
Whiteford, Taylor & Preston, LLP  
3190 Fairview Park Drive, Suite 800  
Falls Church, VA 22042  
Tel: (703) 280-9131  
Fax: (703) 280-9139  
[aterrell@wtplaw.com](mailto:aterrell@wtplaw.com)  
[mdiaz@wtplaw.com](mailto:mdiaz@wtplaw.com)